

AMENDMENTS TO LB 658

Introduced by Urban Affairs.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 66-1801, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 66-1801 Sections 66-1801 to 66-1864 and sections 4, 5,
6 and 6 of this act shall be known and may be cited as the State
7 Natural Gas Regulation Act.

8 Sec. 2. Section 66-1802, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 66-1802 For purposes of the State Natural Gas Regulation
11 Act:

12 (1) Agricultural ratepayer means a ratepayer whose usage
13 of natural gas does not qualify the ratepayer as a high-volume
14 ratepayer and (a) whose principal use of natural gas is for
15 agricultural crop or livestock production, irrigation pumping, crop
16 drying, or animal feed or food production or (b) whose service is
17 provided on an interruptible basis;

18 (2) Appropriate pretax revenue means the revenue
19 necessary to produce net operating income equal to:

20 (a) The jurisdictional utility's weighted cost of capital
21 multiplied by the net original cost of eligible infrastructure
22 system replacements, including recognition of accumulated deferred
23 income taxes and accumulated depreciation associated with eligible

1 infrastructure system replacements which are included in an
2 infrastructure system replacement cost recovery charge;

3 (b) Recovery of state, federal, and local income or
4 excise taxes applicable to such income; and

5 (c) Recovery of depreciation expenses;

6 ~~(2)~~ (3) BTU means the amount of energy necessary to raise
7 the temperature of one pound of water one degree Fahrenheit;

8 ~~(3)~~ (4) City means any city or village in the State of
9 Nebraska;

10 ~~(4)~~ (5) Commission means the Public Service Commission;

11 (6) Eligible infrastructure system replacement means
12 jurisdictional utility plant projects that:

13 (a) Do not increase revenue by directly connecting the
14 infrastructure system replacement to new customers;

15 (b) Are in service and used and required to be used;

16 (c) Were not included in the jurisdictional utility's
17 rate base in its most recent general rate case; and

18 (d) May enhance the capacity of the system but are only
19 eligible for infrastructure system replacement cost recovery to
20 the extent the jurisdictional utility plant project constitutes a
21 replacement of existing infrastructure;

22 ~~(5)~~ (7) Gas gathering system means a natural gas pipeline
23 system used primarily for transporting natural gas from a wellhead,
24 or from a metering point for natural gas produced by one or more
25 wells, to a point of entry into a main transmission line;

26 ~~(6)~~ (8) General rate filing means any filing
27 which requests changes in overall revenue requirements for a

1 jurisdictional utility but does not include a filing for an
2 infrastructure system replacement cost recovery charge;

3 ~~(7)~~ (9) High-volume ratepayer means a ratepayer whose
4 natural gas requirements equal or exceed five hundred therms per
5 day as determined by average daily consumption;

6 (10) Infrastructure system replacement cost recovery
7 charge revenue means revenue produced through an infrastructure
8 system replacement cost recovery charge exclusive of revenue from
9 all other rates and charges;

10 ~~(8)~~ (11) Interstate pipeline means any corporation,
11 company, individual, or association of persons or their trustees,
12 lessees, or receivers engaged in natural gas transportation subject
13 to the jurisdiction of the Federal Energy Regulatory Commission
14 under the federal Natural Gas Act, 15 U.S.C. 717 et seq., as such
15 act existed on January 1, 2003;

16 ~~(9)~~ (12) Intrastate natural gas utility business means
17 all of that portion of the business of a natural gas public utility
18 over which the commission has jurisdiction under the State Natural
19 Gas Regulation Act;

20 ~~(10)~~ (13) Jurisdictional utility means a natural gas
21 public utility subject to the jurisdiction of the commission.
22 Jurisdictional utility does not mean a natural gas public utility
23 which is not subject to the jurisdiction of the commission pursuant
24 to section 66-1803;

25 (14) Jurisdictional utility plant projects means only the
26 following:

27 (a) Mains, valves, service lines, regulator stations,

1 vaults, and other pipeline system components installed to comply
2 with state or federal safety requirements as replacements for
3 existing facilities;

4 (b) Main relining projects, service line insertion
5 projects, joint encapsulation projects, and other similar projects
6 extending the useful life or enhancing the integrity of pipeline
7 system components undertaken to comply with state or federal safety
8 requirements; and

9 (c) Facility relocations required due to construction or
10 improvement of a highway, road, street, public way, or other public
11 work by or on behalf of the United States, this state, a political
12 subdivision of this state, or another entity having the power of
13 eminent domain, if the costs related to such relocations have not
14 been reimbursed to the jurisdictional utility;

15 ~~(11)~~ (15) Natural gas public utility means any
16 corporation, company, individual, or association of persons
17 or their trustees, lessees, or receivers that owns, controls,
18 operates, or manages, except for private use, any equipment, plant,
19 or machinery, or any part thereof, for the conveyance of natural
20 gas through pipelines in or through any part of this state. Natural
21 gas public utility does not mean a natural gas utility owned or
22 operated by a city or a metropolitan utilities district. Natural
23 gas public utility does not include any activity of an otherwise
24 jurisdictional corporation, company, individual, or association
25 of persons or their trustees, lessees, or receivers as to the
26 marketing or sale of compressed natural gas for end use as motor
27 vehicle fuel. Natural gas public utility does not include any gas

1 gathering system or interstate pipeline;

2 ~~(12)~~ (16) Rate means every compensation, charge, fare,
3 toll, tariff, rental, and classification, or any of them, demanded,
4 observed, charged, or collected by any jurisdictional utility for
5 any service;

6 ~~(13)~~ (17) Rate area means the geographic area within
7 the state served by a single natural gas public utility through
8 a common pipeline system from the same natural gas supply source
9 within the common system for which the utility has similar costs
10 for serving ratepayers of the same class; and

11 ~~(14)~~ (18) Therm is equivalent to one hundred thousand
12 BTUs.

13 Sec. 3. Section 66-1839, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 66-1839 (1) The Municipal Rate Negotiations Revolving
16 Loan Fund is created. The fund shall be used to make loans to
17 cities for rate negotiations under section 66-1838 or section 6 of
18 this act. Only one loan may be made for each rate filing made by a
19 jurisdictional utility within the scope of such section. Money in
20 the Municipal Natural Gas Regulation Revolving Loan Fund that is
21 not necessary to finance rate proceedings initiated prior to May
22 31, 2003, shall be transferred to the Municipal Rate Negotiations
23 Revolving Loan Fund on May 31, 2003, and repayments of loans or
24 other obligations owing to the Municipal Natural Gas Regulation
25 Revolving Loan Fund on May 31, 2003, shall be deposited in the
26 Municipal Rate Negotiations Revolving Loan Fund upon receipt. Any
27 obligations against or commitments of money from the Municipal

1 Natural Gas Regulation Revolving Loan Fund on May 31, 2003, shall
2 be obligations or commitments of the Municipal Rate Negotiations
3 Revolving Loan Fund.

4 (2) The Municipal Rate Negotiations Revolving Loan Fund
5 shall be administered by the commission which shall adopt and
6 promulgate rules and regulations to carry out this section. The
7 rules and regulations shall include:

8 (a) Loan application procedures and forms; and
9 (b) Fund-use monitoring and quarterly accounting of fund
10 use.

11 (3) Applicants for a loan from the fund shall provide
12 a budget statement which specifies the proposed use of the loan
13 proceeds. Such proceeds may only be used for the costs and expenses
14 incurred by the city to analyze rate filings for the purposes
15 specified in section 66-1838 or section 6 of this act. Such costs
16 and expenses may include the cost of rate consultants and attorneys
17 and any other necessary costs related to the negotiation process.
18 Disbursements from the fund shall be audited by the commission.
19 The affected jurisdictional utility may petition the commission to
20 initiate a proceeding to determine whether the disbursements from
21 the fund were expended by the negotiating cities consistent with
22 the requirements of this section.

23 (4) The fund shall be audited as part of the regular
24 audit of the commission's budget, and copies of the audit shall
25 be available to all cities and any jurisdictional utility. Audits
26 conducted pursuant to this section are public records.

27 (5) Any money in the fund available for investment

1 shall be invested by the state investment officer pursuant to
2 the Nebraska Capital Expansion Act and the Nebraska State Funds
3 Investment Act. If the fund balance exceeds four hundred thousand
4 dollars, the income on the money in the fund shall be credited to
5 the permanent school fund until the balance of the Municipal Rate
6 Negotiations Revolving Loan Fund falls below such amount.

7 (6) A city which receives a loan under this section shall
8 be responsible to provide for the opportunity for all other cities
9 engaged in the same negotiations with the same jurisdictional
10 utility to participate in all negotiations. Such city shall not
11 exclude any other city from the information or benefits accruing
12 from the use of loan funds.

13 (7) Upon the conclusion of negotiations, regardless of
14 the result, the loan shall be repaid by the jurisdictional utility
15 to the commission within thirty days after the date upon which it
16 is billed by the commission. The utility shall recover the amount
17 paid on the loan by a special surcharge on ratepayers who are or
18 will be affected by the rate increase request. These ratepayers may
19 be billed on their monthly statements for a period not to exceed
20 twelve months, and the surcharge may be shown as a separate item on
21 the statements as a charge for rate negotiation expenses.

22 Sec. 4. (1) Beginning January 1, 2010, a jurisdictional
23 utility may file a petition and proposed rate schedules with the
24 commission to establish or change infrastructure system replacement
25 cost recovery charge rate schedules that will allow for the
26 adjustment of the jurisdictional utility's rates and charges to
27 provide for the recovery of costs for eligible infrastructure

1 system replacements. The commission shall not approve an
2 infrastructure system replacement cost recovery charge rate
3 schedule if it would produce total annualized infrastructure system
4 replacement cost recovery charge revenue below the lesser of one
5 million dollars or one-half percent of the jurisdictional utility's
6 base revenue level approved by the commission in the jurisdictional
7 utility's most recent general rate proceeding. The commission
8 shall not approve an infrastructure system replacement cost
9 recovery charge rate schedule if it would produce total annualized
10 infrastructure system replacement cost recovery charge revenue
11 exceeding ten percent of the jurisdictional utility's base revenue
12 level approved by the commission in the jurisdictional utility's
13 most recent general rate proceeding. An infrastructure system
14 replacement cost recovery charge rate schedule and any future
15 changes thereto shall be calculated and implemented in accordance
16 with the State Natural Gas Regulation Act. Infrastructure system
17 replacement cost recovery charge revenue shall be subject to a
18 refund based upon a finding and order of the commission to the
19 extent provided in subsections (6) and (8) of section 5 of this
20 act.

21 (2) The commission shall not approve an infrastructure
22 system replacement cost recovery charge rate schedule for any
23 jurisdictional utility that has not had a general rate proceeding
24 decided or dismissed by issuance of a commission order within
25 the past sixty months immediately preceding the application by
26 the jurisdictional utility for an infrastructure system replacement
27 cost recovery charge.

1 (3) A jurisdictional utility shall not collect an
2 infrastructure system replacement cost recovery charge rate for a
3 period exceeding sixty months after its initial approval unless
4 within such sixty-month period the jurisdictional utility has filed
5 for or is the subject of a new general rate proceeding, except that
6 the infrastructure system replacement cost recovery charge rate
7 may be collected until the effective date of new rate schedules
8 established as a result of the new general rate proceeding or until
9 the general rate proceeding is otherwise decided or dismissed by
10 issuance of a commission order without new rates being established.

11 Sec. 5. (1) This section applies to applications for
12 an infrastructure system replacement cost recovery charge by a
13 jurisdictional utility whose last general rate filing was not the
14 subject of negotiations with affected cities as provided in section
15 66-1838.

16 (2) When a jurisdictional utility files a petition with
17 the commission seeking to establish or change an infrastructure
18 system replacement cost recovery charge rate schedule, it shall
19 submit to the commission with the petition proposed infrastructure
20 system replacement cost recovery charge rate schedules and
21 supporting documentation regarding the calculation of the proposed
22 infrastructure system replacement cost recovery charge rate
23 schedule, including (a) a list of eligible projects, (b) a
24 description of the projects, (c) the location of the projects, (d)
25 the purpose of the projects, (e) the dates construction began and
26 ended, (f) the total expenses for each project at completion, and
27 (g) the extent to which such expenses are eligible for inclusion

1 in the calculation of the infrastructure system replacement cost
2 recovery charge.

3 (3) (a) When a petition, along with any associated
4 proposed rate schedules and documentation, is filed pursuant to
5 subsection (2) of this section, the public advocate shall conduct
6 an investigation of the proposed infrastructure system replacement
7 cost recovery charge rate schedule.

8 (b) The public advocate shall cause an examination to
9 be made of information regarding the jurisdictional utility to
10 confirm that the underlying costs are in accordance with the
11 State Natural Gas Regulation Act and to confirm proper calculation
12 of the proposed infrastructure system replacement cost recovery
13 charge rates and rate schedule. The commission shall require a
14 report regarding such examination to be prepared and filed with
15 the commission not later than sixty days after the petition is
16 filed. No other revenue requirement or ratemaking issue shall be
17 examined in consideration of the petition or associated proposed
18 rate schedules filed pursuant to the act unless the consideration
19 of such affects the determination of the validity of the proposed
20 infrastructure replacement cost recovery charge rate schedule.

21 (c) The commission shall hold a hearing on the petition
22 and any associated rate schedules at which the public advocate
23 shall present his or her report and shall act as trial staff
24 for the commission. The commission shall issue an order to become
25 effective not later than ninety days after the petition is filed.

26 (d) If the commission finds that a petition complies with
27 the requirements of the act, the commission shall enter an order

1 authorizing the jurisdictional utility to impose an infrastructure
2 system replacement cost recovery charge rate that is sufficient to
3 recover appropriate pretax revenue, as determined by the commission
4 pursuant to the act.

5 (4) A jurisdictional utility may petition for a change
6 in its rate pursuant to this section no more than once in any
7 twelve-month period.

8 (5) In determining the appropriate pretax revenue, the
9 commission shall consider the following factors:

10 (a) The net original cost of eligible infrastructure
11 system replacements. For purposes of this section, the net
12 original cost means the original cost of eligible infrastructure
13 system replacements minus associated retirements of existing
14 infrastructure;

15 (b) The accumulated deferred income taxes associated with
16 the eligible infrastructure system replacements;

17 (c) The accumulated depreciation associated with the
18 eligible infrastructure system replacements;

19 (d) The state, federal, and local income tax or excise
20 rates at the time of such determination;

21 (e) The jurisdictional utility's actual regulatory
22 capital structure as determined during the most recent general rate
23 proceeding of the jurisdictional utility;

24 (f) The actual cost rates for the jurisdictional
25 utility's debt and preferred stock as determined during the most
26 recent general rate proceeding of the jurisdictional utility;

27 (g) The jurisdictional utility's cost of common equity as

1 determined during the most recent general rate proceeding of the
2 jurisdictional utility; and

3 (h) The depreciation rates applicable to the eligible
4 infrastructure system replacements at the time of the most recent
5 general rate proceeding of the jurisdictional utility.

6 (6) (a) The monthly infrastructure system replacement cost
7 recovery charge rate shall be allocated among the jurisdictional
8 utility's classes of customers in the same manner as costs for the
9 same type of facilities was allocated among classes of customers in
10 the jurisdictional utility's most recent general rate proceeding.

11 An infrastructure system replacement cost recovery charge rate
12 shall be assessed to customers as a monthly fixed charge and
13 not based on volumetric consumption. Such monthly charge shall
14 not increase more than fifty cents per residential customer over
15 the base rates in effect at the time of the initial filing for
16 an infrastructure system replacement cost recovery charge rate
17 schedule. Thereafter, each subsequent filing shall not increase the
18 monthly charge by more than fifty cents per residential customer
19 over that charge in existence at the time of the most recent filing
20 for an infrastructure system replacement cost recovery charge rate
21 schedule.

22 (b) At the end of each twelve-month period during
23 which the infrastructure system replacement cost recovery charge
24 rate schedule is in effect, the jurisdictional utility shall
25 reconcile the differences between the revenue resulting from
26 the infrastructure system replacement cost recovery charge and
27 the appropriate pretax revenue as found by the commission for

1 that period and shall submit the reconciliation and a proposed
2 infrastructure system replacement cost recovery charge rate
3 schedule adjustment to the commission for approval to recover or
4 refund the difference, as appropriate, through adjustments of the
5 infrastructure system replacement cost recovery charge rate charge.

6 (7) (a) A jurisdictional utility that has implemented
7 an infrastructure system replacement cost recovery charge rate
8 schedule pursuant to the act shall cease to collect such
9 charges when new base rates and charges become effective for the
10 jurisdictional utility following a commission order establishing
11 customer rates in a general rate proceeding.

12 (b) In any subsequent general rate proceeding involving
13 a jurisdictional utility which is collecting charges pursuant
14 to an infrastructure system replacement cost recovery charge
15 rate schedule, the commission shall reconcile any previously
16 unreconciled infrastructure system replacement cost recovery charge
17 revenue as necessary to ensure that the revenue matches as
18 closely as possible the appropriate pretax revenue as found by
19 the commission for that period.

20 (8) In the event the commission disallows, during a
21 subsequent general rate proceeding, recovery of costs associated
22 with eligible infrastructure system replacements previously
23 included in an infrastructure system replacement cost recovery
24 charge rate schedule, the commission shall order the jurisdictional
25 utility to make such rate adjustments as necessary to recognize and
26 account for any such overcollections.

27 (9) Nothing in this section shall be construed to

1 limit the authority of the commission to review and consider
2 infrastructure system replacement costs along with other costs
3 during any general rate proceeding of any jurisdictional utility.

4 Sec. 6. (1) This section applies to applications for
5 an infrastructure system replacement cost recovery charge by a
6 jurisdictional utility whose last general rate filing was the
7 subject of negotiations with affected cities as provided for in
8 section 66-1838.

9 (2) When a jurisdictional utility governed by this
10 section files a petition with the commission seeking to establish
11 or change an infrastructure system replacement cost recovery
12 charge rate schedule, it shall submit proposed infrastructure
13 system replacement cost recovery charge rate schedules and
14 supporting documentation regarding the calculation of the proposed
15 infrastructure system replacement cost recovery charge rate
16 schedule with the petition and shall provide written notice to
17 each city that will be affected by the proposed infrastructure
18 system replacement cost recovery charge rates simultaneously with
19 the filing with the commission. Such notice shall identify the
20 cities that will be affected by the filing. The jurisdictional
21 utility shall file copies of the notice with the commission and
22 shall file with the affected cities the information prescribed by
23 this section with each city affected by the proposed infrastructure
24 system replacement cost recovery charge in electronic or digital
25 form or, upon request, in paper form.

26 (3) The jurisdictional utility shall file with the
27 cities and the commission the infrastructure system replacement

1 cost recovery charge rate schedules and supporting documentation
2 regarding the calculation of the proposed infrastructure system
3 replacement cost recovery charge rate schedule, including (a) a
4 list of eligible projects, (b) a description of the projects, (c)
5 the location of the projects, (d) the dates construction began and
6 ended, (e) the total expenses for each project at completion, and
7 (f) the extent to which such expenses are eligible for inclusion
8 in the calculation of the infrastructure system replacement cost
9 recovery charge rate.

10 (4) (a) Affected cities shall have a period of
11 fifteen days after the date of such filing within which to
12 adopt a resolution evidencing their intent to negotiate an
13 infrastructure system replacement cost recovery charge rate with
14 the jurisdictional utility. A copy of the resolution in support of
15 negotiations adopted by each city under this section or a copy of
16 the resolution of the rejection of the offer of negotiations shall
17 be provided to the commission and the jurisdictional utility within
18 seven days after its adoption.

19 (b) If the commission receives resolutions adopted prior
20 to the expiration of the fifteen-day period provided for in
21 subdivision (a) of this subsection evidencing the intent from
22 cities representing more than fifty percent of the ratepayers
23 within the affected cities to negotiate with the jurisdictional
24 utility an infrastructure system replacement cost recovery charge
25 rate, the commission shall certify the case for negotiation between
26 such cities and the jurisdictional utility and shall take no action
27 upon the petition and filings regarding such charge until the

1 negotiation period and any stipulated extension has expired or an
2 agreement on rates is submitted, whichever occurs first.

3 (c) If the commission receives notice from cities
4 representing more than fifty percent of the ratepayers within
5 the affected cities which expressly reject negotiations, the
6 infrastructure system replacement cost recovery charge rate review
7 shall proceed immediately from the date when the commission makes
8 such a determination in the manner provided for in section 5 of
9 this act.

10 (d) If commission certification to pursue negotiations is
11 received, the cities that have adopted resolutions to negotiate and
12 the jurisdictional utility shall enter into good faith negotiations
13 over the proposed infrastructure system replacement cost recovery
14 charge rate.

15 (e) Negotiations between the cities and the
16 jurisdictional utility shall continue for a period not to
17 exceed thirty days after the date of the filing of the petition,
18 documentation, and proposed infrastructure system replacement cost
19 recovery charge rate schedule, except that the parties may mutually
20 agree to extend such period for an additional thirty-day period and
21 shall provide such stipulation to the commission.

22 (f) Notwithstanding any other provision of law, any
23 information exchanged between the jurisdictional utility and cities
24 pursuant to this section is not a public record within the
25 meaning of sections 84-712 to 84-712.09 and its disclosure to the
26 commission, its staff, the public advocate, or any other person or
27 corporation, for any purpose, is expressly prohibited.

1 (g) If the cities and the jurisdictional utility reach
2 agreement upon the proposed infrastructure system replacement cost
3 recovery charge rate schedule, such agreement shall put into
4 writing and filed with the commission. If cities representing
5 more than fifty percent of the ratepayers within the cities
6 affected by the proposed infrastructure system replacement cost
7 recovery charge rate schedule enter into an agreement upon such
8 charges and the agreement is filed with and approved by the
9 commission, such infrastructure system replacement cost recovery
10 charge rate schedule shall be effective and binding upon all of
11 the jurisdictional utility's ratepayers within the affected cities.
12 The commission shall enter its order either approving or rejecting
13 such infrastructure system replacement cost recovery charge rate
14 schedule within thirty days after the date of the filing of the
15 agreement with the commission.

16 (h) Any agreement filed with the commission shall be
17 presumed in the public interest, and absent any clear evidence on
18 the face of the agreement that it is contrary to the standards and
19 provisions of the State Natural Gas Regulation Act, the agreement
20 shall be approved by the commission.

21 (i) If the negotiations fail to result in an agreement
22 upon an infrastructure system replacement cost recovery charge
23 rate schedule within the time permitted by this section for such
24 negotiations, the jurisdictional utility shall formally notify the
25 commission of this fact and the matter shall be submitted for
26 determination by the commission as a contested proceeding with the
27 affected cities as one party and the jurisdictional utility as the

1 other. The affected cities and the jurisdictional utility shall
2 submit any documents, data, or information in support of the city's
3 or utility's position to the commission in a report to be filed not
4 later than fourteen days after the commission receives notice that
5 negotiations have failed and formally notifies the parties that it
6 will be hearing the matter as a contested case. The commission
7 shall hold a hearing in the case not later than thirty-five
8 days after the receipt of the reports of both parties. A final
9 determination by the commission shall be rendered by the commission
10 within twenty-one days after the adjournment of the hearing.

11 (j) Within thirty days after an infrastructure system
12 replacement cost recovery charge rate schedule approved by the
13 commission pursuant to this section becomes effective, copies of
14 all documents relating to such infrastructure system replacement
15 cost recovery charge rate schedule, except those determined to be
16 confidential under rules and regulations adopted and promulgated by
17 the commission or that may be withheld from the public pursuant to
18 subdivision (f) of this subsection, shall be available for public
19 inspection in every office and facility open to the general public
20 of the jurisdictional utility in this state.

21 (5) A jurisdictional utility may petition for a change
22 in an infrastructure system replacement cost recovery charge rate
23 schedule approved pursuant to this section no more than once in
24 any twelve-month period. Any such petition for a change shall be
25 pursued in the manner provided for in this section.

26 (6) (a) A monthly infrastructure system replacement cost
27 recovery charge rate shall be allocated among the jurisdictional

1 utility's classes of customers in the same manner as costs for the
2 same type of facilities was allocated among classes of customers in
3 the jurisdictional utility's most recent general rate proceeding.
4 An infrastructure system replacement cost recovery charge rate
5 shall be assessed to customers as a monthly fixed charge and
6 not based on volumetric consumption. Such monthly charge shall
7 not increase more than fifty cents per residential customer over
8 the base rates in effect at the time of the initial filing for
9 an infrastructure system replacement cost recovery charge rate
10 schedule. Thereafter, each subsequent filing shall not increase the
11 monthly charge more than fifty cents per residential customer over
12 that charge in existence at the time of the most recent filing
13 for an infrastructure system replacement cost recovery charge rate
14 schedule.

15 (b) At the end of each twelve-month period that
16 the infrastructure system replacement cost recovery charge
17 rate schedule is in effect, the jurisdictional utility shall
18 reconcile the differences between the revenue resulting from an
19 infrastructure system replacement cost recovery charge and the
20 appropriate pretax revenue for that period and shall submit the
21 reconciliation and any proposed infrastructure system replacement
22 cost recovery charge rate schedule adjustment to the affected
23 cities for approval to recover or refund the difference, as
24 appropriate, through adjustments of the infrastructure system
25 replacement cost recovery charge rate. Review and approval of such
26 reconciliation or adjustment shall proceed in the manner set out
27 for an initial application for an infrastructure system replacement

1 cost recovery charge rate as provided in this section.

2 (7) (a) A jurisdictional utility that has implemented
3 an infrastructure system replacement cost recovery charge rate
4 schedule pursuant to this section shall cease to collect such
5 charges when new base rates and charges become effective for the
6 jurisdictional utility following a commission order establishing or
7 approving customer rates in a subsequent general rate proceeding.

8 (b) In any subsequent general rate proceeding involving
9 a jurisdictional utility which is collecting charges pursuant to
10 an infrastructure system replacement cost recovery charge rate
11 schedule, the new general rates shall reflect a reconciliation of
12 any previously unreconciled infrastructure system replacement cost
13 recovery charge revenue as necessary to ensure that the revenue
14 matches as closely as possible to the appropriate pretax revenue
15 for that period as determined in the general rate proceeding.

16 (c) If, during a subsequent general rate proceeding, the
17 recovery of certain costs associated with eligible infrastructure
18 system replacement cost recovery charges are disallowed, the new
19 general rates approved shall include such adjustments as are
20 necessary to recognize and account for any overcollections.

21 (8) Nothing in this section shall be construed to limit
22 the authority of the commission or affected cities engaged in
23 negotiations regarding a general filing with a jurisdictional
24 utility to review and consider infrastructure system replacement
25 cost recovery charge rates along with other costs during any
26 general rate proceeding of such jurisdictional utility.

27 Sec. 7. Section 84-712.05, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 84-712.05 The following records, unless publicly
3 disclosed in an open court, open administrative proceeding, or open
4 meeting or disclosed by a public entity pursuant to its duties, may
5 be withheld from the public by the lawful custodian of the records:

6 (1) Personal information in records regarding a student,
7 prospective student, or former student of any educational
8 institution or exempt school that has effectuated an election
9 not to meet state approval or accreditation requirements pursuant
10 to section 79-1601 when such records are maintained by and in
11 the possession of a public entity, other than routine directory
12 information specified and made public consistent with 20 U.S.C.
13 1232g, as such section existed on January 1, 2003;

14 (2) Medical records, other than records of births and
15 deaths and except as provided in subdivision (5) of this section,
16 in any form concerning any person; records of elections filed under
17 section 44-2821; and patient safety work product under the Patient
18 Safety Improvement Act;

19 (3) Trade secrets, academic and scientific research work
20 which is in progress and unpublished, and other proprietary or
21 commercial information which if released would give advantage to
22 business competitors and serve no public purpose;

23 (4) Records which represent the work product of an
24 attorney and the public body involved which are related to
25 preparation for litigation, labor negotiations, or claims made by
26 or against the public body or which are confidential communications
27 as defined in section 27-503;

1 (5) Records developed or received by law enforcement
2 agencies and other public bodies charged with duties of
3 investigation or examination of persons, institutions, or
4 businesses, when the records constitute a part of the examination,
5 investigation, intelligence information, citizen complaints or
6 inquiries, informant identification, or strategic or tactical
7 information used in law enforcement training, except that this
8 subdivision shall not apply to records so developed or received
9 relating to the presence of and amount or concentration of alcohol
10 or drugs in any body fluid of any person;

11 (6) Appraisals or appraisal information and negotiation
12 records concerning the purchase or sale, by a public body, of any
13 interest in real or personal property, prior to completion of the
14 purchase or sale;

15 (7) Personal information in records regarding personnel
16 of public bodies other than salaries and routine directory
17 information;

18 (8) Information solely pertaining to protection of the
19 security of public property and persons on or within public
20 property, such as specific, unique vulnerability assessments or
21 specific, unique response plans, either of which is intended
22 to prevent or mitigate criminal acts the public disclosure of
23 which would create a substantial likelihood of endangering public
24 safety or property; computer or communications network schema,
25 passwords, and user identification names; guard schedules; or lock
26 combinations;

27 (9) The security standards, procedures, policies, plans,

1 specifications, diagrams, access lists, and other security-related
2 records of the Lottery Division of the Department of Revenue and
3 those persons or entities with which the division has entered into
4 contractual relationships. Nothing in this subdivision shall allow
5 the division to withhold from the public any information relating
6 to amounts paid persons or entities with which the division has
7 entered into contractual relationships, amounts of prizes paid, the
8 name of the prize winner, and the city, village, or county where
9 the prize winner resides;

10 (10) With respect to public utilities and except as
11 provided in sections 43-512.06 and 70-101, personally identified
12 private citizen account payment information, credit information on
13 others supplied in confidence, and customer lists;

14 (11) Records or portions of records kept by a publicly
15 funded library which, when examined with or without other records,
16 reveal the identity of any library patron using the library's
17 materials or services;

18 (12) Correspondence, memoranda, and records of telephone
19 calls related to the performance of duties by a member of
20 the Legislature in whatever form. The lawful custodian of the
21 correspondence, memoranda, and records of telephone calls, upon
22 approval of the Executive Board of the Legislative Council, shall
23 release the correspondence, memoranda, and records of telephone
24 calls which are not designated as sensitive or confidential in
25 nature to any person performing an audit of the Legislature. A
26 member's correspondence, memoranda, and records of confidential
27 telephone calls related to the performance of his or her

1 legislative duties shall only be released to any other person with
2 the explicit approval of the member;

3 (13) Records or portions of records kept by public
4 bodies which would reveal the location, character, or ownership
5 of any known archaeological, historical, or paleontological site
6 in Nebraska when necessary to protect the site from a reasonably
7 held fear of theft, vandalism, or trespass. This section shall not
8 apply to the release of information for the purpose of scholarly
9 research, examination by other public bodies for the protection of
10 the resource or by recognized tribes, the Unmarked Human Burial
11 Sites and Skeletal Remains Protection Act, or the federal Native
12 American Graves Protection and Repatriation Act;

13 (14) Records or portions of records kept by public
14 bodies which maintain collections of archaeological, historical, or
15 paleontological significance which reveal the names and addresses
16 of donors of such articles of archaeological, historical, or
17 paleontological significance unless the donor approves disclosure,
18 except as the records or portions thereof may be needed to carry
19 out the purposes of the Unmarked Human Burial Sites and Skeletal
20 Remains Protection Act or the federal Native American Graves
21 Protection and Repatriation Act;

22 (15) Job application materials submitted by applicants,
23 other than finalists, who have applied for employment by any
24 public body as defined in section 84-1409. For purposes of
25 this subdivision, (a) job application materials means employment
26 applications, resumes, reference letters, and school transcripts
27 and (b) finalist means any applicant (i) who reaches the final pool

1 of applicants, numbering four or more, from which the successful
2 applicant is to be selected, (ii) who is an original applicant
3 when the final pool of applicants numbers less than four, or (iii)
4 who is an original applicant and there are four or fewer original
5 applicants; ~~and~~

6 (16) Social security numbers; credit card, charge card,
7 or debit card numbers and expiration dates; and financial account
8 numbers supplied to state and local governments by citizens; ~~and-~~

9 (17) Information exchanged between a jurisdictional
10 utility and city pursuant to section 6 of this act.

11 Sec. 8. Original sections 66-1802, 66-1839, and
12 84-712.05, Reissue Revised Statutes of Nebraska, and section
13 66-1801, Revised Statutes Cumulative Supplement, 2008, are
14 repealed.